

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ALICIA KAY HONABACH,

Plaintiff,

v.

MICHAEL J. ASTRUE, Commissioner of
Social Security,

Defendant.

Case No. 3:12-cv-05523-RBL-KLS

ORDER TO SHOW CAUSE REGARDING
FAILURE TO SERVE THE COMPLAINT
IN A TIMELY MANNER

This matter comes before the Court on plaintiff's failure to serve the complaint in a timely manner. Federal Rule of Civil Procedure ("Fed. R. Civ. P.") 4(m) provides in relevant part that "[i]f a defendant is not served within 120 days after the complaint is filed, the court – on motion or its own after notice to the plaintiff – must dismiss the action without prejudice against that defendant or order that service be made within specified time," unless "the plaintiff shows good cause for the failure," in which case "the court must extend the time for service for an appropriate period."

In the case of actions brought against a United States agency or a United States officer or employee in their official capacity, a copy of the summons and complaint must be served both on the United States itself and "by registered or certified mail" on the United States agency, officer or employee. Fed. R. Civ. P. 4(i)(2). "To serve the United States, a party must:

- (A)(i) deliver a copy of the summons and of the complaint to the United States attorney for the district where the action is brought – or to an assistant United States attorney or clerical employee whom the United States attorney designates in a writing filed with the court clerk – or

- 1 (ii) send a copy of each by registered or certified mail to the civil-process
2 clerk at the United States attorney's office;
3 (B) send a copy of each by registered or certified mail to the Attorney
4 General of the United States at Washington, D.C.; and
5 (C) if the action challenges an order of a non-party agency or officer of the
6 United States, send a copy of each by registered or certified mail to the
7 agency or officer.

8 Fed. R. Civ. P. 4(i)(1).

9 In this case, on June 13, 2012, plaintiff filed with the Court a copy of his complaint and a
10 copy of a summons addressed to: US District Court – Western District of Washington, Office of
11 the Regional Chief Counsel, Seattle (Region X), 700 Stewart Street, Seattle, WA 98101. See
12 ECF#1 and #1-2. On June 15, 2012, plaintiff was informed as to the deficiency of the form of
13 the summons he had filed and as to how to go about curing that deficiency. See ECF, **NOTICE**
14 **TO FILER: SUMMONS FORM INCORRECT – NOT COURT FORM**, June 15, 2012. To
15 date, more than 120 days have passed since plaintiff filed his complaint with the Court. There is
16 no indication, however, that proper service has been made on defendant, nor has plaintiff shown
17 good cause for not properly serving defendant.

18 Accordingly, plaintiff hereby is **ORDERED** to effect proper service on defendant and
19 submit evidence thereof to the Court by **no later than November 23, 2012**, or show cause why
20 this matter should not be dismissed without prejudice pursuant to Fed. R. Civ. P. 4(m) for failure
21 to prosecute.

22 DATED this 24th day of October, 2012.

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26 Karen L. Strombom
United States Magistrate Judge